

REMARKS

Claims 20-35 are pending in the application. Claims 20-35 are rejected.

Applicants cancel claims 20, 23 and 29-35, and amend claims 21, 22, 24, 27 and 28, without prejudice. Accordingly, claims 21, 22 and 24-28 remain pending upon entry of this Amendment and Response.

Amendment to the Claims

Applicants have amended claims 20-35. Specifically, claims 20, 23 and 29-35 have been cancelled. Claims 21 and 22 are amended to recite methods of increasing cerebral bioavailability of simvastatin compositions. Claim 22 also is amended to incorporate the subject matter of claim 23. Claim 24 has been amended to depend from claim 22. Claims 27 and 28 are amended to conform with the amendments to claims 21 and 22, and to depend from claims 21, 22 and 24-26. Applicants submit that no new matter is introduced by this amendment.

Applicants have amended the claims to expedite prosecution of the presently claimed subject matter. Applicants expressly reserve the right to pursue all subject matter described in the instant application, including the subject matter of the originally-filed claims, by amendments to the instant application or in continuation applications claiming priority to the instant application.

Rejection of Claims 20 and 28 Under 35 U.S.C. § 103

The previous rejection under 35 U.S.C. § 103(a) of claims 21, 23 and 24 over the abstract of the article: Myslivecek *et al.*, NEUROSCIENCE 79(3): 659-669 (1997) (“Myslivecek”) has been withdrawn by the Examiner. The rejection of claims 20 and 28 remains standing.

While Applicants respectfully disagree with the maintained rejection, in order to expedite prosecution, Applicants cancel claim 20 without prejudice, and amend claim 28 to depend from independent claims 21 and 22, which are not rejected over Myslivecek. Accordingly, Applicants request withdrawal of the rejection over Myslivecek.

Rejection of Claims 29-35 Under 35 U.S.C. § 103

Claims 29-35 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the abstract for the article: Werner *et al.*, PROCEEDINGS OF THE SOCIETY FOR EXPERIMENTAL BIOLOGY AND MEDICINE 219(3): 171-182 (Dec. 1998). This rejection has been deemed moot in view of the current rejection of claims 29-35 under 35 U.S.C. § 103(a) over U.S. Patent No. 5,945,452 to Cooke *et al.* ("Cooke").

While Applicants respectfully disagree with the rejection over Cooke, in order to expedite prosecution, Applicants cancel claims 29-35 without prejudice. Accordingly, Applicants request withdrawal of the rejection over Cooke.

Rejection of Claims 20-28 Under 35 U.S.C. § 112

The Examiner acknowledges that claims 20-28 are enabled under 35 U.S.C. § 112 with respect to increasing the bioavailability of simvastatin. The examiner asserts, however that claims 20-28 are not enabled with respect to "increased bioavailability of any physiologically active composition."

Applicants respectfully disagree with the Examiner's assertion, but in order to expedite prosecution, have amended the claims to recite methods of increasing cerebral bioavailability of simvastatin compositions. Accordingly, Applicants request withdrawal of the rejection under 35 U.S.C. § 112.

CONCLUSION

In view of the foregoing, reconsideration of the rejections and allowance of all pending claims is respectfully requested. If there are any remaining issues or the Examiner believes that a telephone conversation with Applicants' Attorney would be helpful in expediting prosecution of this application, the Examiner is invited to call the undersigned at (617) 227-7400.

Respectfully submitted,



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